

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2020-1-E**

In the Matter of:	)	
	)	
Annual Review of Base Rates for Fuel	)	<b>POST-HEARING BRIEF OF DUKE</b>
Costs of Duke Energy Progress, LLC	)	<b>ENERGY PROGRESS, LLC</b>
	)	
	)	

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On April 27, 2020, Duke Energy Progress, LLC (“DEP” or the “Company”) filed its case-in-chief, consisting of witness testimony and exhibits, in the above-referenced proceeding with the Public Service Commission of South Carolina (the “Commission”) requesting recovery of its fuel costs under S.C. Code Ann. § 58-27-865. The hearing in this proceeding was held before the Commission on June 9, 2020. The Company, by and through its undersigned counsel and pursuant to S.C. Code Ann. Regs. 103-851, hereby submits this Brief in order to clarify its positions regarding the discovery issues raised by the Southern Alliance for Clean Energy and the South Carolina Coastal Conservation League (“SACE/CCL”) and to set forth its request to have certain portions of the Surrebuttal Testimony of Gregory Lander on behalf of SACE/CCL stricken from the record.

**I. SACE/CCL’s DISCOVERY ISSUES**

In Docket No. 2019-3-E, the Commission required Duke Energy Carolinas, LLC (“DEC”) to “record its natural gas utilization on an hourly and daily basis on a prospective basis,” and to make the information available for production in its next fuel case. Order No. 2019-691 at 19, Docket No. 2019-3-E (Sept. 30, 2019). In good faith, DEP began to investigate and pursue the steps necessary to obtain and record this information for production in its own upcoming fuel case

and did produce such information when requested by SACE/CCL. In this case, SACE/CCL has now expanded its request to the Commission to require the Company to specially prepare and provide a report to SACE/CCL that includes (1) each of the Company's generating units, (2) each unit's hourly electricity generation, (3) the type of each unit, (4) the type of fuel consumed by each unit, and (5) the quantity of fuel consumed by each unit on an hourly basis. Presumably SACE/CCL would want this report to cover the fuel case's review period, though it is unclear from its filings. Nothing about this request sheds any doubt on the amount of fuel burned or planned to be burned over the review period, nor does this request affect the fuel rates to be established in this case, nor does anything about this request tie to the fuel statute. Moreover, no other intervenor has sought this information, including the Office of Regulatory Staff, over the many years of the Commission conducting these fuel proceedings.

**A. SACE/CCL's request is offensive to basic discovery rules.**

SACE/CCL demands that the Company specially prepare and produce information in discovery that the Company does not have in the form requested. Inherent to the process of discovery is the fact that one party has in its "possession, custody or control" information that the other seeks. S.C.R.C.P. 34(a).<sup>1</sup> It is axiomatic that, in order for a party to be required to turn over documents pursuant to a request for production of documents, the documents must actually be in the possession, custody or control of the party upon whom the request is served. *Reiland v. Southland Equip. Serv.*, 330 S.C. 617, 636 (S.C. App. 1998).

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<sup>1</sup> While S.C. Code Ann. Regs. 103-833(C) describes the *process* by which requests for production are served and responded to, it does not address *what* may be discovered through such requests. S.C. Rule of Civil Procedure 34(a) supplies what may be discovered pursuant to S.C. Code Ann. Regs. 103-835.

While, in good faith, the Company retained and produced the operational data that SACE/CCL sought in the 2019 DEC fuel case, SACE/CCL now asks that the Commission require the Company to prepare a special report of information that will facilitate Mr. Lander's flawed analysis. The Company does not have the requested information, has no business need for it, and the report SACE/CCL seeks goes well beyond what this state's discovery rules permit.

**B. SACE/CCL seeks this discovery requirement to support an analysis that is fundamentally flawed and unhelpful and, if taken to its logical conclusion, would impose risk to customers in exchange for no meaningful reward.**

Mr. Lander insists upon and continues to make an hourly analysis of the Company's gas procurement and utilization, an analysis that has no bearing on the utility's actual relationship with its pipeline and gas capacity and no relation to the costs of natural gas included in actual or projected expenses. Transco, the Company's sole interstate natural gas transportation provider, places daily limits on the Company's gas utilization. As the Company has explained in the past two proceedings, the penalties associated with violating the pipeline's daily restrictions are severe, there are no hourly restrictions, and it cannot and should not resell hourly gas capacity. Were the Company to resell the 10,000 dth at the \$0.02 per dth price suggested by Mr. Lander, the Company would stand to gain \$200—assuming there were even a buyer for the capacity—but the Company's customers would face the potential for a \$500,000 penalty (10,000 dth \* \$50 penalty). McClay Rebuttal Testimony at 14-15. Fundamentally, Mr. Lander's analysis—even if it were cogent and based on revenue-quality data—has no bearing on the Company's actual operations as an electric utility customer of Transco nor does it have any bearing on the Company's fuel costs to be included in the rates proposed in this case.

As discussed in Mr. McClay's testimony, the Company's firm capacity allows DEC and DEP to mitigate penalties associated with pipeline imbalances, and customers receive the benefit through lower cost gas supply, intraday supply adjustments at minimal cost, and mitigation of

punitive pipeline imbalance penalties. McClay Rebuttal Testimony at 7. The hourly analysis of the Company's gas utilization that SACE/CCL insists upon has zero relevance to the Company's actual gas utilization strategy or the expenses at issue in this fuel case.

**C. This fuel rates proceeding is not the appropriate forum to make preliminary conclusions regarding additional pipeline infrastructure.**

While the specially prepared report proposed by Mr. Lander may or may not assist SACE/CCL in a future proceeding related to additional pipeline infrastructure, it has no bearing on the Company's fuel costs at issue in this base fuel cost proceeding. Mr. Lander had sufficient information in this case to conclude—even using under-calculated gas utilization figures—that the Company obtained a “very good level of utilization,” but he also concluded that “the Company would have to more than triple the amount of firm pipeline capacity that it has today in order to cover its highest burn date.” Lander Rebuttal testimony at 6; Lander Surrebuttal Testimony at 6. There are numerous other references in Mr. Lander's testimony to potential future capacity that are not at issue in this proceeding.

Simply put, this proceeding is not about future capacity build-outs. Because Mr. Lander had enough information in this proceeding to determine that the Company made very good use of its gas capacity over the review period, no additional information regarding the Company's gas capacity is necessary.

**D. The burden is on the party seeking production to specify exactly what is being requested.**

There was apparent confusion on the part of SACE/CCL at the hearing as to whether its request for fuel consumption data was intended to apply only to the Company or to both DEP and DEC. This request was item 7 of SACE/CCL's “Request for Production of Documents.” While the Request for Production was not filed with the Chief Clerk as required by S.C. Code Ann. Regs. 103-833(C), it is attached hereto as Exhibit No. 1 for reference.

The request for production in question states “Please provide in MS Excel format the Company’s gas use by hour by day for each of the Company’s generating facilities for the current period and include the pipeline and Contract ID used to deliver such gas.” (emphasis added). There was a sub-part (a) to item 1-7 that was stated as follows: “With respect to Company’s response to this request please break out Company’s generation for South Carolina customers from generation for customers of Company’s affiliates in other jurisdictions by jurisdiction.” Brief Exhibit No. 1 at 7. A natural reading of the plain text of this discovery request would prompt a reasonable utility to provide its own hourly gas consumption information—as was discussed in the 2019 DEC fuel case—and to break down that gas burn information between that which was used for its own customers and that which was been burned for other customers (e.g., pursuant to the Joint Dispatch Agreement between DEC and DEP).

There was a suggestion at the hearing that SACE/CCL may or may not have intended to request gas burn information for both DEC and DEP, and the definition provided in the set of discovery requests is anything but clear, defining “the Company” to refer to Duke Energy Progress and also its “employees, agents, consultants, experts, subsidiaries, affiliates, and other operational or functional units and all officers, directors, owners, members, employees, agents and representatives of these entities,” and “all other persons acting on behalf of Duke Energy Progress, LLC.” Brief Exhibit No. 1 at 7. In any case, the Company did, in fact, provide the requested hourly operational information for both DEC and DEP plants, and it encourages SACE/CCL to request with specificity information that it may seek in any future fuel cases in which it propounds discovery. The burden is on the proponent of discovery to be precise in their questions, and the burden is on the respondent to answer such questions. It is not for a respondent to intuit what the questioner may have had in mind.

**E. SACE/CCL is attempting to circumvent the Commission's discovery process.**

SACE/CCL's position is essentially that, because it was not satisfied with the Company's response to a discovery request (one requesting hourly fuel oil burn data), the Commission should require the Company to prepare for it a special report of information. When SACE/CCL was unable to obtain the requested information, the S.C. Rules of Civil Procedure—as adopted in the context of discovery by Commission Regulation 103-835—would require the filing of a motion to compel. The Company would also generally expect that the party would consult with the Company before filing such a motion in a good faith effort to resolve the discovery matter. As the Commission recently found:

Various discovery devices are available to enable a party to gather information to prepare and present evidence in our proceedings. **If there were a discovery dispute, the proper mechanism to require a party to provide properly discoverable information is a motion to compel.** No party moved to compel discovery in this proceeding.

Order No. 2018-708 at 3, Docket No. 2018-2-E (Oct. 30, 2018) (emphasis added). As in this case, there is a discovery issue for which SACE/CCL seeks a remedy, and the appropriate method for obtaining such a remedy is a motion to compel, not by seeking special dispensation in testimony. There appears to be an increasing trend of parties failing to adequately avail themselves of the discovery process, and then complaining about discovery issues later in the proceeding. This is unfair to the parties involved, and it belabors the proceeding at a time when the Commission should be focusing its attention on the merits rather than on side issues untimely raised by the parties.

As in last year's DEC proceeding, the Company responded to SACE/CCL's discovery request in a timely manner, and SACE/CCL did not seek clarification or further information from the Company related to this issue, nor did it file a motion to compel as required by the Commission's regulations and the S.C. Rules of Civil Procedure. The Company believes that the appropriate way to resolve discovery matters is through the processes prescribed by this Commission's regulations and the S.C. Rules of Civil Procedure, and that a party should not be rewarded after failing to do so.

## II. SACE/CCL'S REQUEST TO ADJUST THE PROCEDURAL SCHEDULE

SACE/CCL has requested, in testimony, that the Commission adjust the procedural schedule in its fuel cases to provide for more time between when the Company files its direct testimony and when intervenors file their direct testimony in order to provide, SACE/CCL argues, more time for discovery. SACE/CCL states that there is insufficient time between the date on which the Company files its testimony and the date on which its own testimony is due for it to conduct discovery.

### A. **SACE/CCL's premise is incorrect, and it had adequate time in this case to conduct discovery.**

In this case, Mr. Lander suggests that, because there were three weeks between the Company's testimony filing date and the intervenors' testimony filing date, SACE/CCL did not have sufficient time to conduct discovery. Lander Direct Testimony at 19. However, SACE/CCL propounded its first discovery request on the Company in this case **more than five (5) weeks before its testimony was due to be filed.** McClay Rebuttal Testimony at 18. SACE/CCL's argument, therefore, that the testimony filing dates are restricting its ability to propound discovery is misleading. The Company provided complete responses to SACE/CCL's discovery weeks before intervenor testimony was due, and any suggestion to the contrary mischaracterizes the timeline in this case and the Company's responsiveness. As explained previously by the Company, it needs sufficient time to prepare its testimony and exhibits following the end of the Review Period prior to its testimony due date, and the procedural timeline cannot be pushed back due to the rate implementation date in the Billing Period. That SACE/CCL propounded its only set of substantive discovery weeks before the Company's testimony filing date belies its purported need for an adjustment to the procedural schedule.

### III. THE COMPANY'S AND SACE/CCL'S MOTIONS TO STRIKE

The hearing for this proceeding was held on June 9, 2020. At the beginning of the hearing, counsel for DEP moved the Commission to strike a portion of surrebuttal testimony filed by Gregory Lander on behalf of SACE/CCL that was not responsive to testimony filed by the Company on rebuttal. As a courtesy, counsel for DEP had consulted with counsel for SACE/CCL prior to the hearing to provide advance notice of his intention to lodge the motion to strike. At the hearing, counsel for SACE/CCL offered his own motion to strike a portion of the Company's rebuttal testimony.

#### A. The Company's Motion to Strike

At the hearing, counsel for the Company moved to strike the following portions of Mr. Lander's surrebuttal testimony: (1) page 2, line 5 through line 19, which discusses the Company's utilization of short-term capacity; and (2) page 3, line 12 through page 4, line 13, which discusses a discovery issue that the Company believes is legal in nature and inappropriately addressed in testimony.

South Carolina case law limits reply testimony, which includes surrebuttal testimony, to that which responds to matters already raised.<sup>2</sup> Testimony that is arguably contradictory and in reply to that offered by the defense is admissible, but "reply testimony should be limited to rebuttal of matters raised by the defense." *State v. Huckabee*, 388 S.C. 232, 242, 694 S.E.2d 781, 786 (Ct. App. 2010); *see also* *State v. South*, 285 S.C. 529, 535, 331 S.E.2d 775, 779 (1985). The

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<sup>2</sup> *See Daniel v. Tower Trucking Co.*, 32 S.E.2d 5, 10 (S.C., 1944) ("He upon whom lies the burden of proof has the right to offer reply (rebuttal) testimony to that of his adversary and the latter's witnesses, provided it is in the nature of true reply and not such as should have been offered in the case in chief."); *State v. Farrow*, 332 S.C. 190, 194 (S.C. App., 1998) ("We thus hold the reply testimony . . . was improper because it was not presented to rebut evidence adduced by Farrow.") (citing *Daniel v. Tower Trucking Co.*, 205 S.C. 333, 32 S.E.2d 5 (1944)).



policy reason underlying this longstanding rule is that it would be fundamentally unfair—arguably a violation of due process—for a party to raise an issue for the first time without other parties being given a corresponding opportunity to introduce responsive evidence. *See generally Daniel v. Tower Trucking Co. Inc.*, 32 S.E.2d 5, 10 (S.C. 1944).

As related to Mr. Lander’s discussion of the Company’s utilization of short-term capacity at page 2, line 5 through line 19 of his surrebuttal testimony, this matter was not directly addressed in Mr. McClay’s rebuttal testimony because, frankly, he does not believe the analysis to be relevant to this fuel case and because Mr. Lander bases his analysis on incomplete data. Instead, Mr. McClay, as an electric utility operations expert, relies upon long-term capacity and short-term capacity in the aggregate. *See McClay Rebuttal Testimony at 10-11.*

As related to the discovery matters addressed in Mr. Lander’s testimony at page 3, line 12 through page 4, line 13, such testimony was not “offered in reply” as required by South Carolina case law. While the Company recounted the information that it provided in discovery—which appears to have included all of the requested information except for hourly fuel oil burn data, which the Company does not have—Mr. Lander’s exposition in his surrebuttal testimony as to generator types and the standardization of generator names is not in reply to testimony filed by the Company. Mr. Lander’s direct testimony was his opportunity to explain his view as to the relevance of generator type information and the need for information to be presented a particular way in discovery, not in surrebuttal.

Expounding upon issues in surrebuttal testimony that is not directly in reply to the Company's rebuttal testimony is improper, it prejudicially influences the decision-making of this Commission, and the offending testimony should be stricken.<sup>3</sup>

**B. SACE/CCL's Motion to Strike**

SACE/CCL's motion to strike should be denied because (1) it was filed out-of-time with the Commission; (2) it relates to rebuttal testimony, which SACE/CCL had ample opportunity to respond to in its own pre-filed surrebuttal testimony; and (3) the subject rebuttal testimony addressed issues discussed in SACE/CCL's direct testimony.

First, SACE/CCL's motion to strike was filed out-of-time. S.C. Code Ann. Regs. 103-829(A) requires that motions be reduced to writing and filed with the Chief Clerk at least ten (10) days prior to the commencement of a hearing. While this timeframe was impossible as related to the Company's motion to strike applicable to SACE/CCL's surrebuttal testimony, which was filed only a week before the hearing, the Company's rebuttal testimony was filed two full weeks before the hearing in this proceeding. SACE/CCL therefore had an adequate opportunity to file its motion to strike as required by the Commission's regulations, and its failure to do so should bar its late-filed motion.

Second, the policy reason why new arguments and information should not be included in surrebuttal testimony is because it would be fundamentally unfair for a party to raise an issue for the first time without other parties being given a corresponding opportunity to introduce responsive evidence. That issue does not exist in the case of rebuttal testimony because other parties have

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<sup>3</sup> *State v. Farrow*, 332 S.C. 190, 194 (S.C. App., 1998) ("We thus hold the reply testimony . . . was improper because it was not presented to rebut evidence adduced by Farrow."); *Winget v. Winn-Dixie Stores, Inc.*, 242 S.C. 152, 130 S.E.2d 363 (S.C., 1963) (finding reversible error where the lower court denied a motion to strike and permitting it to be left in the case "for what it is worth").

another opportunity to introduce additional testimony and evidence, i.e., surrebuttal testimony. A party should not be rewarded for failing to timely file a motion to strike and then sleeping on their opportunity to respond in surrebuttal testimony.

Third, the complained-of testimony actually did address issues discussed in SACE/CCL's direct testimony. The testimony with which SACE/CCL takes issue is page 7, lines 12 through 15 of Mr. McClay's rebuttal testimony, which reads as follows:

First, [the Company's firm transmission capacity] allows the Companies to procure lower cost natural gas supply from Transco Zones 3 and 4 and transport it to Transco Zone 5 for delivery to the Carolinas' generation fleet. Transco Zones 3 and 4 intersect with multiple pipelines and have excellent supply liquidity and lower gas prices compared to Zone 5.

This portion of Mr. McClay's testimony explains how the Company obtains fuel at lowest cost for its customers. To the extent SACE/CCL argues that Mr. Lander's testimony did not address the Company's fuel costs, the Company questions its relevance at all to this proceeding. More specifically than fuel cost, this excerpt addresses how the Company obtains firm gas transmission capacity and arranges for its delivery to its generation fleet. Besides this issue being eminently relevant to the central subject matter of this proceeding, i.e., fuel costs, the issue is addressed in Mr. Lander's discussion of whether and how "the Companies have made prudent use of ratepayer dollars in procuring such capacity." Lander Direct Testimony at 6. Such prudent use of ratepayer dollars is not limited to capacity utilization, but also how the Company obtains lowest-cost fuel.

#### **IV. CONCLUSION**

SACE/CCL's positions and analysis are fundamentally flawed and generally lack utility in these fuel proceedings. The interposition of the phantom issues raised by Mr. Lander only serve to bog down and confuse the one true issue in these proceedings: the fuel costs incurred by the Company. Mr. Lander spends a significant amount of time and attention in both his direct and surrebuttal testimony discussing future pipeline additions, an issue that is clearly well outside of

the scope of these fuel proceedings. While the Company seeks relief as related to certain procedural and discovery matters above, it also asks that the Commission chasten the parties to restrict their activities in these fuel proceedings exclusively to matters addressed within S.C. Code Ann. § 58-27-865. Placing undue focus on other matters is not in the interest of judicial efficiency and does not best serve customers.

WHEREFORE, the Company asks the Commission to: (1) find that SACE/CCL's request that the Company prepare a special report to be produced in discovery is not appropriate or necessary; (2) chasten the parties restrict their activities in these fuel proceedings exclusively to matters reasonably addressed within S.C. Code Ann. § 58-27-865; (3) reject as unnecessary SACE/CCL's request to adjust the procedural schedule; (4) grant the Company's motion to strike because the offending portions of Mr. Lander's surrebuttal testimony were not in the nature of reply; (5) deny SACE/CCL's motion to strike because it is out-of-time, SACE/CCL had an opportunity to respond in its pre-filed surrebuttal testimony, and the Company's testimony was in reply to Mr. Lander's pre-filed direct testimony; and (6) grant any such other relief as the Commission deems just and reasonable.

Respectfully submitted,

s/Samuel J. Wellborn

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June 19, 2020

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

IN RE: ANNUAL REVIEW OF BASE	)	
RATES FOR FUEL COSTS OF	)	
DUKE ENERGY PROGRESS, LLC	)	DOCKET NO. 2020-1-E
	)	

**South Carolina Coastal Conservation League and Southern Alliance for Clean Energy's  
First Request for Production of Documents to Duke Energy Progress, LLC**

Pursuant to S.C. Code Ann. Regs. 103-833 and the South Carolina Rules of Civil Procedure, the South Carolina Coastal Conservation League and the Southern Alliance for Clean Energy (collectively, "CCL/SACE"), by and through its undersigned counsel, hereby request that Duke Energy Progress, LLC ("DEP") respond to this First Request for Production of Documents separately and fully, under oath, and in writing within twenty (20) days of the date of service hereof to the offices of J. Blanding Holman IV, Southern Environmental Law Center, 525 East Bay Street, Suite 200, Charleston, SC 29403 and, where feasible, electronically to bholman@selcsc.org.

**INSTRUCTIONS**

**IT IS HEREIN REQUESTED:**

1. That all information shall be provided to the undersigned in the format as requested.
2. That all responses to the below First Request for Production of Documents shall be labeled using the same numbers as used herein.
3. That if the requested information is found in other places or in other exhibits, reference not be made to those, but, instead, that the information be reproduced and placed in the responses to the Interrogatories in the appropriate sequence.

## Exhibit No. 1

4. That any inquiries or communication relating to questions concerning clarifications of the data requested below be directed to the undersigned.
5. That all exhibits be reduced to an 8.5" x 11" format.
6. That each Request for Production of Documents be reproduced at the beginning of the response thereto.
7. That, in addition to the signature and verification at the close of DEP's responses, DEP's witness(es) responsible for the information contained in each response be also indicated.
8. That DEP provide the undersigned with responses to the Request for Production of Documents as soon as possible but not later than twenty (20) days from the date of service hereof.
9. If the response to any Request for Production of Documents is that the information requested is not currently available, state when the information requested will become available.
10. These Requests for Production of Documents shall be deemed continuing so as to require DEC to supplement or amend its responses as any additional information becomes available up to and through the date of hearing.
11. If a privilege not to answer an interrogatory is claimed, identify each matter as to which the privilege is claimed, the nature of the privilege, and the legal and factual basis for each such claim.
12. If a refusal to answer a Request for Production of Documents is based on the grounds that same would be unduly burdensome, identify the number and nature of documents needed to be searched, the location of the documents, and the number of man hours and costs required to conduct the search.

Exhibit No. 1

13. Answer each Request for Production of Documents on the basis of the entire knowledge of DEP, including information in the possession of DEP, its officers, directors, consultants, representatives, agents, experts, and attorneys, if any.

14. If any Request for Production of Documents cannot be answered in full, answer to the extent possible and specify the reasons for DEP's inability to answer.



### **DEFINITIONS**

1. The terms “DEP,” “the Company,” “You,” and “Your” where used in these Interrogatories and Requests for Production of Documents refers to Duke Energy Progress, LLC, together with its employees, agents, consultants, experts, subsidiaries, affiliates, and other operational or functional units and all officers, directors, owners, members, employees, agents and representatives of these entities. It also includes all other persons acting on behalf of Duke Energy Progress, LLC.

2. “Document” and “documents” shall mean all written, recorded or graphic matters whatsoever and all non-identical copies thereof, including but not limited to papers, work papers, books, records, letters, photographs, correspondence, communications, electronic mail, telegrams, cables, telex messages, evidences of payment, checks, memoranda, notes, notations, work papers, transcripts, minutes, reports, recordings of telephone or other conversations, statements, summaries, opinions, studies, analyses, evaluations, contracts, agreements, jotting, agendas, bulletins, notices, announcements, advertisements, guidelines, charts, manuals, brochures, publications, schedules, price lists, subscription lists, customer lists, journals, statistical reports, desk calendars, appointment books, diaries, lists, tabulations, newsletters, drafts, proofs, galleys, or other prepublication forms of materials, telephone lists or indexes, rolodexes, computer printouts, data processing program libraries, data processing input and outputs, microfilm, microfiches, CD ROMs, books of account, records or invoices reflecting business operations, all records kept by electronic, photographic or mechanical means, any notes or drafts relating to any of the foregoing, and any other documents as defined in Rule 34 of the South Carolina Rules of Procedure of any kind in your possession, custody or control or to which you have access or know to exist.

3. “Relate,” “relating,” “relating to,” and “related to” when used in these Interrogatories shall mean recording, summarizing, embodying, constituting, reflecting, digesting, referring to, commenting upon, describing, reporting, listing, analyzing, studying, or otherwise discussing in any way a subject matter identified in the interrogatory, and is defined so as to reach all matters within the scope of discovery pursuant to the Commission’s Regulations and the South Carolina Rules of Civil Procedure, including all information which, though inadmissible at trial, is reasonably calculated to lead to the discovery of admissible evidence.

4. “Identify” or “identity” used with reference to an individual means to state his or her full name, present or last known address, present or last known position and business affiliation, and employer, title, and position at the time in question. If the person was an officer, director, trustee, commissioner, or employee of DEP, also state the job title and areas of responsibility.

5. “Identify” or “identity” used with reference to a writing means to state the date, author, type of document (*e.g.*, letter, memorandum, telegram, chart, note, application, etc.) or other means of identification, and its present location or custodian. If any such document is no longer in DEC’s possession or subject to its control, state what disposition was made of it.

6. “Address” means home address, mailing address, school address, and business address.

7. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of these Interrogatories any information which might otherwise be construed outside their scope.

**REQUEST FOR PRODUCTION OF DOCUMENTS**

1. Please provide copies of any responses to data requests by any other parties in this docket.  
Where available, please provide copies electronically in the native file format.
2. Based upon forecasted load projections, please provide duration curves for annual forecasted megawatt-hour per day production alongside gas consumption (in dekatherms per day) for the forecast period.
3. Please provide in MS Excel format the Company's near- and long-term natural gas consumption forecasts, as well as any of the inputs and worksheets not explicitly stated in the forecasts.
4. Please provide in MS Excel format Company's projected annual fuel consumption, heat rate, megawatts of capacity, and MWH of generation for each of the Company's gas-fired units, as well as for each unit that has been converted to dual-fuel technology that enables it to burn coal, oil, and/or gas or a mixture of gas, oil and/or coal.
5. Please provide in MS Excel format the fuel oil burn (in MMBtu) at each company-owned combustion turbine, by hour, by day, for the test period.
6. Identify all natural gas pipeline transportation capacity contacts (intrastate and interstate) held by the Company for the current period. For each contract, please provide the following:
  - a. Signing parties
  - b. Pipeline name
  - c. Contract ID
  - d. Type of contract
  - e. Daily entitlement
  - f. Primary receipt location(s) and daily receipt entitlement
  - g. Primary delivery location(s) and daily delivery entitlement
  - h. Market area(s)/Zones covered by primary path
  - i. Current term
  - j. Expiration date

## Exhibit No. 1

- k. Price (the actual prices, not just whether the price is a tariff rate or a negotiated rate)
  - l. Power plant(s) served
- 7. Please provide in MS Excel format the Company's gas use by hour by day for each of the Company's generating facilities for the current period and include the pipeline and Contract ID used to deliver such gas.
  - a. With respect to Company's response to this request please break out Company's generation for South Carolina customers from generation for customers of Company's affiliates in other jurisdictions by jurisdiction.
- 8. Please provide in MS Excel format the MWh of electricity production by plant by hour for the test period.
  - a. With respect to Company's response to this request please break out Company's generation for South Carolina customers from generation for customers of Company's affiliates in other jurisdictions by jurisdiction.
- 9. Please provide in MS Excel format the MWh of load the Company served by hour for the test period.
- 10. Please provide the quantities of gas (in Dth) scheduled to each of DEPs gas-fired generating units for the test period.
  - a. With respect to Company's response to this request please break out Company's scheduled quantities for the benefit of South Carolina customers from scheduled quantities for customers of Company's affiliates in other jurisdictions by jurisdiction.
- 11. Please provide by gas-fired generating plant the allocation of fixed costs by pipeline and local distribution company for the test period.

- a. With respect to Company's response to this request, please break out Company's allocation of such fixed costs for the benefit of South Carolina customers from allocated fixed costs for customers of Company's affiliates in other jurisdictions by jurisdiction.
12. Please provide copies of any precedent agreements for natural gas transportation services entered into by DEP or by any of its affiliates on behalf of DEP, any amendments thereto, and any negotiated rates.
- a. With respect to Company's response to this request please identify the quantity of capacity intended to serve Company's customers versus quantity intended for customers of Company's affiliates in other jurisdictions by jurisdiction.

April 10, 2020

Respectfully submitted,

s/J Blanding Holman IV

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